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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,582	02/04/2002	Kazuhiko Hachiya	112857-314	2820
29175	7590	08/07/2007	EXAMINER	
BELL, BOYD & LLOYD, LLP			PESIN, BORIS M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/072,582	HACHIYA ET AL.
Examiner	Art Unit	
Boris Pesin	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 May 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 72-99 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 81-87 and 94-99 is/are allowed.

6) Claim(s) 72-80 and 88-93 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. _____
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ 5) Notice of Informal Patent Application
6) Other: _____

DETAILED ACTION

Response to Amendment

This communication is responsive to the amendment filed 3/26/2007.

Claims 72-99 are pending in this application. Claims 72 and 81 are independent claims. In the amendment filed 3/26/2007, Claim 72 was amended. This action is made Non-Final.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/26/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 72-80 and 88-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leahy et al. (US 6219045) in view of Weishut et al. (US 5923737) further in view of Logan et al. (US 4821029).

In regards to claim 72, Leahy teaches, method of controlling an agent associated with user of an electronic system comprising: sending an agent parameter from the electronic system(i.e. *“Current avatar position register 114 contains the current position and orientation of A's avatar in the virtual world. This position is communicated to other clients via network message processor 104. The position stored in register 114 is updated in response to input from input devices 116. For example, a mouse movement might be interpreted as a change in the current position of A's avatar.”* Column 5, Line 15); wherein said agent parameter defines a behavior of an agent (i.e. *“Current avatar position register 114 contains the current position and orientation of A's avatar in the virtual world. This position is communicated to other clients via network message processor 104. The position stored in register 114 is updated in response to input from input devices 116. For example, a mouse movement might be interpreted as a change in the current position of A's avatar.”* Column 5, Line 15). Leahy does not teach setting a state of said agent in said electronic system to absent state in response to sending the agent parameter. Leahy further does not teach modifying the behavior of the agent in said electronic system in accordance with said state wherein modifying

the behavior includes displaying an animated image associated with the agent at the electronic system if the state is present.

Weishut teaches setting a state of said agent in said electronic system to absent state in response to sending the agent parameter (i.e. "FIG. 6 shows how the user can indicate, if he is absent or not and how the absent state is indicated. The user simply indicates his absence/presence by switching the light switch 4. Absence is represented by a dark office as shown in the figure, while presence is represented by an illuminated office, just like in every day life. The control means are arranged for communicating the absence of the user of the terminal to other terminals, the users of those terminals thereby being informed of the absence of the user." Column 5, Line 47). Weishut further teaches, modifying the behavior of the agent in said electronic system in accordance with said state in said electronic system, wherein modifying the behavior includes displaying an animated image associated with the agent at the electronic system if the state is present (i.e. "FIG. 6 shows how the user can indicate, if he is absent or not and how the absent state is indicated. The user simply indicates his absence/presence by switching the light switch 4. Absence is represented by a dark office as shown in the figure, while presence is represented by an illuminated office, just like in every day life. The control means are arranged for communicating the absence of the user of the terminal to other terminals, the users of those terminals thereby being informed of the absence of the user." Column 5, Line 47). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Leahy with the teachings of Weishut and include a method to generate agent

parameters under certain condition with the motivation to provide the user more details on the status of another user.

Leahy-Weishut do not teach resetting said agent parameter and setting said state to present if said agent parameter is not returned within a predetermined time period.

Logan teaches resetting said state to present if said agent parameter is not returned within a predetermined time period (Column 53-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Leahy-Weishut with the teachings of Logan and include a method of resetting said state to present if said agent parameter is not returned within a predetermined time period with the motivation to provide the user a simpler way of resetting the system to active state.

In regards to claim 73, Leahy teaches a method wherein said agent is an animated agent (Figure 1, Element 18).

In regards to claim 74, Leahy teaches a method wherein said behavior of said agent is determined by plurality of agent parameters (i.e. "Current avatar position register 114 contains the current position and orientation of A's avatar in the virtual world. This position is communicated to other clients via network message processor 104. The position stored in register 114 is updated in response to input from input devices 116. For example, a mouse movement might be interpreted as a change in the current position of A's avatar." Column 5, Line 15).

In regards to claim 75, Leahy teaches a method further comprising storing image data of said animated agent (Figure 4, Element 108).

In regards to claim 76, Leahy teaches a method further comprising detecting one or more events corresponding to said agent when said state is absent state in said electronic system and updating said agent parameters based on current agent parameters with each detected event such that the behavior of said virtual agent is continuously modified with each detected event (i.e. "Current avatar position register 114 contains the current position and orientation of A's avatar in the virtual world. This position is communicated to other clients via network message processor 104. The position stored in register 114 is updated in response to input from input devices 116. For example, a mouse movement might be interpreted as a change in the current position of A's avatar." Column 5, Line 15).

In regards to claim 77, Leahy and Weishut further teach a method comprising sending information representing said predetermined time period along with said agent parameter (Weishut, Figure 11 Element 514, i.e. idle, inherent that there is a time).

In regards to claim 78, Leahy teaches a method further comprising receiving said agent parameters at said electronic system after sending said agent parameter (i.e. "In order that each user sees the correct location of each of the other avatars, each client machine sends its current location, or changes in its current location, to the server and receives updated position information of the other clients." Column 3, Line 25).

In regards to claim 79, Leahy and Weishut teach a method further comprising changing said state of said agent to existence state in response to receiving said agent parameter (Weishut Column 6, Lines 47-49).

In regards to claim 80, Leahy further teaches a method wherein said received agent parameter is a modified version of said agent parameter (i.e. "In order that each user sees the correct location of each of the other avatars, each client machine sends its current location, or changes in its current location, to the server and receives updated position information of the other clients." Column 3, Line 25).

In regards to claim 88, Leahy-Weishut-Logan further teach a method of claim 72 wherein modifying the behavior in said electronic system of the agent includes removing the image associated with the agent from a display of the electronic system if the state is absent state (Weishut, Column 5 Lines 47-55).

In regards to claim 89, Leahy and Weishut further teach a method of claim 72 wherein modifying the behavior in said electronic system of the agent includes displaying, at the electronic system, second image of the agent leaving an area if the state is absent state (Weishut, Column 5 Lines 47-55).

In regards to claim 90, Leahy and Weishut further teach a method of claim 89 wherein the area is a room (Weishut, Column 5 Lines 47-55).

In regards to claim 91, Leahy and Weishut further teach a method of claim 72 wherein modifying the behavior in said electronic system of the agent includes displaying, at the electronic system, an animation of the agent leaving an area if the state is absent state (Weishut, Column 5 Lines 47-55, *switches from light to dark*).

In regards to claim 92, Leahy and Weishut further teach a method of claim 91 wherein the area is a room (Weishut, Column 5 Lines 47-55).

In regards to claim 93, Leahy and Weishut further teach a method of claim 72 wherein said electronic system is a computer (Weishut, Column 5 Lines 47-55).

Allowable Subject Matter

Claims 81-87 and 94-99 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

In regards to impendent claim 81, prior art found does not teach, controlling an animated electronic pet associated with a user of an electronic system, wherein plurality of pet parameters determine a behavior of an animated electronic pet, setting a state of said animated electronic pet in said electronic system to absent state in response to sending said plurality of pet parameters; resetting said plurality of pet parameters and setting said state to present if said plurality of pet parameters are not returned within predetermined time period; and modifying the behavior of the animated electronic pet in said electronic system in accordance with said state, wherein modifying the behavior includes displaying an image associated with the animated electronic pet at the electronic system if the state is present; in combination with all of the other claim limitations.

Response to Arguments

Applicant's arguments with respect to claims 72-80 and 88-93 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 3/26/2007 with respect to claims 72-80 and 88-93 have been fully considered but they are not persuasive.

The Applicant argues that Weishut does not teach a method wherein modifying the behavior includes displaying an animated image associated with the agent at the electronic system if the state is present. The Examiner respectfully disagrees. As per the Applicant's argument, in Weishut, the user indicates his absence/presence by switching the light switch. Absence is represented by a dark office ... while presence is represented by an illuminated office (See Page 7). The light changing from dark to bright is in itself an animated image. Furthermore, the phrase "animated" is nonfunctional descriptive material and is not functionally involved in the steps recited. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 403 (Fed. Cir. 1983); *In re Lowry*, 32, F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (571) 272-4070. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BP

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